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DEPARTMENT Pt. 1

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C O N T E N T S.

Legal Department File No. Essential Supplies II/47 Part I

Sr. No.	Compilation No.	Subject	pages.
		The Essential Supplies (Temporary Powers) Act, 1946.	
1.	UR to CSD No.80 dated 3-1-47	Sec.3 - Restriction Order under -	1 - 4
2.	UR to CSD No. 23 contl. dt. 16-1-47	Sec. 3 - Order restricting movement of Ceylon Copra under	5 - 8
3.	UR to CSD No. 1567 dated 15-1-47	Sec 3 - Order under -	9 - 12
4.	UR to CSD No. 3434 dated 12-3-47	Sec. 3 - Order under - for movement of Gram or Tur -	13 - 16
5.	UR to CSD No. 3369 dated 2-4-47	Sec.3 - Order reg, cocoanut Oil under -	17 -20
6.	UR to CSD No. 1148 dated 3-2-47	Taking an agreement from Applicant of a Licence on informal basis - feasibility of -	21 - 22
7.	UR to CSD No. 3748 dated 17-4-47	Authorising inspectors under clause 6 of the Dom. Essen. Comm. (Regn, of D & A) Order, 1947 -	23 - 26
8.	UR to CSD No. 4991 dated 15-5-47	Cotton Textiles (Control of Movement) Order, 1947 - issue of-permits under -	27 - 30
9.	UR to C of E No. 4993 dated 15-5-47.	Sec. 3 -Notfn, under -	31 - 34
10.	UR to CSD No. 4930 dated 15-5-1947	Sec. 3 -Order under -	35 - 38
11.	UR to CSD No. 5474 dated 27-5-47	Feasibility of putting double restrictions on the Licence holders -	39 - 40
12.	UR to RCD No. 5493 dated 23-5-47	Authority of Provincial Govt. to issue Orders inrespect of Oilcakes -	41 - 44
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Miss) K.V.G./14-8

8 C.

MR 15/5

K.S.R. 15/5.

Office of the R.L.A.

Government Order in the Finance Department (Supply) No. 390/F.A.C./VI, dated 8th March 1946 at page 17 was issued under rule 81(2) of the Defence of India Rules, which have expired on 30-9-1946. However, the said Order continues in force under section 17(2) of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), read with section 6 of the Essential Supplies (Temporary Powers) Ordinance, 1946 (Ordinance No. XXIII of 1946).

2. A revised Order at page 51, in supersession of the said Order, as slightly amended, is in order under the provisions of section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), read with the Government of India Department of Food, Notification No. PY-603(2) I, dated 21-10-1946, which also continues in force under section 17(2) of Act XXIV of 1946.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs,

U.O. to C.S.D. No. 80 dated 3rd January 1947.

K.V.G./14-5
4C.

Civil Supplies Department,

Bombay Castle, January 1947.

O R D E R.

Essential Supplies (Temporary Powers) Act, 1946.

No. 390/F.A.C./VI :- In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers Act, 1946 (XXIV of 1946), read with the Government of India, Department of Food, Notification, No. PY-603(2) I, dated the 21st October 1946, and in supersession of Government order in the late Finance Department (Supply), No.390/F.A.C./VI, dated the 8th March 1946, the Governme of Bombay is pleased, with the previous concurrence of the Central Government, to direct that except under the authority of a written permit granted by the Supply Commissioner, Bombay :-

(a) no person, or body of persons acting in concert either jointly or severally, other than a caterer or ca caterers, at or in connection with one or more parties entertainments or functions, social, religious or otherwise, - and

(b) no caterer at the instance or for the benefit of himself or any person in connection with one or more of his own or such persons parties, entertainments or functions, social, religious or otherwise, shall on any o one day in the City of Bombay and the Bombay Suburban District either himself or themselves or through an agent or agents serve, distribute or provide for consumption, or accept or contribute for service or distribution for consumption, any foodgrains, eatables, milk or any beverage other than tea or coffee in which milk is used, to twenty five or more persons (including the person or persons so serving, distributing or providing, or accepting or contributing for such service or distribution).

Explanation:- For the purposes of this Order, a function shall include a meeting of the members of a clu

P.T.O.

CLUB or association whereat any business in furtherance of the objects of such club of association is transacted.

2. This order shall come into force with effect from the the day of 1947.

By order of the Governor of Bombay,

Sd/-

Secretary to Government.

Office of the R.L.A.

Sub-section (1) of section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), empowers the Central Government to provide for regulating or prohibiting the production supply and distribution of any essential commodity by notified order. The expression "notified order" as defined in section 2(d) of the Act means an order notified in the Official Gazette. The proposed order will therefore have to be published in the Bombay Government Gazette even though it may affect one individual. It would not therefore be desirable to make it in the form of a letter as suggested by the Civil Supplies Department. A revised draft Order is accordingly sent herewith. It will have to be published in the Bombay Government Gazette. There would be no objection to forwarding a copy thereof to the person concerned separately. If as stated at page 13 ante the condition regarding previous concurrence is withdrawn, the words "with the previous concurrence of the Central Government" should be deleted from the revised draft Order.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.O.S. to C.S.D.No. 23 Confl.
Dated the 16th January 1947.

(Miss) K.V.S./14-5

4 C.

Civil Supplies Department,

Bombay Castle, 1947.

ORDER.

Essential Supplies (Temporary Powers) Act, 1946.

No. In exercise of the powers under section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), read with the Government of India, Department of Food Notification No. PY 603(2) I, dated the 21st October 1946, the Government of Bombay, with the previous concurrence of the Central Government, hereby direct that Mr./Messrs ..... shall not without the written permission of the Director of Civil Supplies, Bombay, or the Deputy Director of Civil Supplies (General), Bombay, --

(i) remove any stocks of Ceylon copra received by him from time to time from the Tata Oil Mills Company Ltd. under the Government of India Scheme or from any other person and held by him whether on his own account or on account of or in partnership with any other person at any godown or other place of storage in the City of Bombay or the Bombay Suburban District as constituted immediately before the 1st day of October 1946, or

(ii) dispose of the said stocks or any portion thereof.

Note:- In this Order "dispose of" includes converting of copra into any other article or thing by means of crushing or otherwise.

By order of the Governor of Bombay,

Sd/-

Secretary to Government.

Office of the R.I.A.

In place of the proposed draft order at page 78, a revised draft Order is sent herewith.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.O. to C.S.D., No. 1067 , dated the 15th February 1937.

Miss) K.V.G.
14-5

4C.

Civil Supplies Department,

Bombay Castle, March 1947.

Order.

No. 943/II. In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946, (Act No. XXIV of 1946), read with the Government of India, Department of Food, Notification No. PY 603(2) I, dated 21st October 1946, the Government of Bombay is pleased, with the concurrence of the Central Government, to make the following Order, namely :-

(1) No person shall bring by rail, road or water within the limits of any village or of any taluka in the districts of Kaira, Panch Mahals, Ahmednagar, West Khandesh and Sholapur, from any place outside the said limits, any quantity of gram or tur or any of the products thereof, except under a permit granted by the District Magistrate of that District or by any officer authorised by him in this behalf.

(2) No person shall remove by rail, road or water from the limits of any village or of any taluka in the districts of Kaira, Panch Mahals, Ahmednagar, West Khandesh and Sholapur, to any place outside the said limits, any quantity of gram or tur or any of the products thereof, except under a permit granted by the District Magistrate of that District or by any officer authorised by him in this behalf.

Provided that, no such permit as is mentioned in (1) or (2) above, shall be required for bringing into or removing from the said limits stocks of any of the said articles on behalf of Government or under and in accordance with Military Credit Notes.

Provided further, that no such permit as is mentioned in (1) or (2) above shall be required for bringing into or removing from the said limits at a time a quantity of any of the said articles not exceeding 2 lbs, by weight or 1 seer by measure, for bonafide personal use or for grinding or for conversion of the pulse into dal.

P.T.O.

(3) No person in the districts of Kaira, Panch Mahals Ahmednagar, West Khandesh and Sholapur whether he is a licensed wholesale or retail dealer or not, shall sell or otherwise dispose of any quantity of gram or tur or any of the products thereof, to any person other than the Provincial Government or a person authorised by the District Magistrate concerned.

Provided that this restriction shall not apply to the sale or disposal of the said grains by a producer :

(a) to any other person resident in the village, for that person's bonafide consumption, in quantities not exceeding 2 lbs, by weight or 1 seer by standard measure at any one time;

(b) to a village artisan or other person entitled to receive it as a customary remuneration for services; or

(c) as wages to a labourer employed by a producer.

(d) to a landlord, of the share of produce or rent due to him by a tenant.

(4) If any person contravenes any of the provisions of this Order, any Court trying such contravention may dim direct that any property in respect of which the Court is satisfied that the Order has been contravened shall be forfeited to His Majesty.

By order of the Governor of Bombay,

Sd/- W.G.Hulland,
Joint Secretary to Government.

Civil Supplies Department,

Bombay Castle, March 1947.

O R D E R.

Essential Supplies (Temporary Powers) Act, 1946.

No. :- In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), read wi the Government of India, Department of Food, Notification No. PT 603(8)-I, dated the 31st October 1946, the Government of Bombay is pleased, with the previous concurrence of the Central Government, to make the following order, namely :-

1. No person shall bring into or remove from any village or taluka situate in any of the districts named in the Schedule appended hereto, either by rail road or water, any quantity of grain or flour or of any of the products thereof, except under a permit granted by the District Magistrate of the district concerned or by any officer authorised by him in this behalf:

Provided that nothing contained in this clause shall apply to import or export of -

(a) any quantity of the said articles by or on behalf of Government or under and in accordance with Military Credit Notes, or

(b) a quantity of the said articles not exceeding 2 lbs. by weight or 1 seer by measure by any person for his bonafide personal use or for purposes of grinding or for conversion of the said pulses into dal.

2. No person in any of the districts named in the Schedule appended hereto, whether he is or is not a licensed wholesale or retail dealer shall sell or otherwise dispose of any quantity of the said articles to or in favour of any person, other than th the Provincial Government or a person authorised by

P.T.O.

the District Magistrate of the district concerned:

Provided that this restriction shall not apply to the sale or disposal of tur or gram by a producer of these grains -

(a) to any person resident in the village for such person's bonafide consumption, in quantities not exceeding 2 lbs by weight or 1 seer by measure at any one time;

(b) to a village artisan or other person entitled to received it as a customary remuneration for services;

(c) as wages in favour of a labourer employed by such producer; or

(d) in favour of a landlord on account of the share of produce or rent due to him from a tenant.

3. If any person contravenes any of the provisions of this Order, any Court trying such contravention may direct that any quantity of tur or gram or products thereof in respect of which the Court is satisfied that the Order has been contravened, shall be forfeited to His Majesty.

S C H E D U L E.

Names of districts.

1. Kaira.
2. Panch Mahals.
3. Ahmednagar.
4. West Khandesh.
5. Sholapur.

By order of the Governor of Bombay,

Sd/-

Secretary to Government.

Office of the R.L.A.

In place of the proposed draft Order at pages 41-42 ante, a revised draft thereof is sent herewith. The Civil Supplies Department should verify whether the revised draft carried out its intention.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.R. to C.S.D., No. 2434, dated the 12th March 1947.

Miss) K.V.G.
14-5

Office of the S.L.A.

In place of the proposed draft order at page 15, a revised draft thereof is sent herewith. The Civil Supplies Department should verify whether it carries out its intention and whether sale of coconut oil is exempt from payment of sales tax. As the order falls inter alia under section 3(2)(c) of the Essential Supplies (Temporar Powers) Act, 1946 (XXIV of 1946), previous concurrence of the Central Government will be required under the Government of India, Department of Food, Notification No. PF. 603(2)I, dated the 21st October 1946.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.R. to C.S.'s.No. 3209, dated the End April 1947.

K.V.G./11-5
4 C.

Civil Supplies Department,
Bombay Castle, March 1947.

O R D E R.

Essential Supplies (Temporary Powers) Act, 1946.

No. 54/IV-A. In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), read with the Government of India, Department of Food, Notification No. FT 603(2) I, dated the 31st October 1946, and in supersession of Order No. E.I. & C. WAR 311, dated the 22nd March 1946, issued by the District Magistrate, Ahmednagar, the Government of Bombay is pleased, with the previous concurrence of the Central Government, to make the following Order, namely :-

(1) No dealer in any place in the Ahmednagar Cantonment or the Ahmednagar District shall --

*Date to be filled by Civil Supplies Department.

(a) with effect from * sell or cause to be sold cocoanut oil wholesale at prices higher than those specified in column 2 of the Schedule hereto annexed, and retail at prices higher than those specified in column 3 of the said Schedule;

(b) on demand and offer of price, refuse to sell cocoanut oil available with him to any person at the rates specified in sub-clause (a), except under any orders to the contrary issued by a competent authority and for the time being in force.

(2) Every such dealer shall --

(a) display and keep displayed in a conspicuous position in each place of his business a copy of this order;

(b) in respect of every sale of cocoanut oil issue to a purchaser a cash memorandum or other memorandum containing full and correct particulars of the quantity and the rate at which it is sold.

P.T.O.

(3) The retail price chargeable in respect of the quantity of cocoanut oil sold by a dealer to a person shall be calculated at the rates specified in column 3 of the said Schedule rounded off to the nearest whole pice, that is, fractions of a pice equivalent to one and a half pies or more shall be counted as one pice, and fractions of a pice equivalent to less than one and a half pies shall be ignored.

(4) Any Court trying a contravention of this Order may direct that any stock of cocoanut oil in respect of which the Court is satisfied that the Order has been contravened shall be forfeited to His Majesty.

Explanation :- For the purposes of this Order -

(a) "Dealer" means a person carrying on the business, whether or not in conjundtion with any other business, of selling cocoanut oil whether wholesale or retail;

(b) "Wholesale sale" means sale in quantities of one Bengali maund and above.

Schedule

x x x

By order of the Governor of Bombay,

Sd/-

Secretary to Government.

(Mim) K.V.G.

OFFICE OF THE R.L.A.

The question referred to the R.L.A. for consideration is whether it is legal to order that no licence shall be given unless the applicant is prepared to sign an agreement that his deposit will be liable to forfeiture in case of breach of any of the conditions of the licence. The answer is in the negative, i.e. it will not be legal to require a licencee to sign any such agreement. Obviously the agreement must relate to the breach of the conditions of the licence, and must in that manner conflict with the provisions of section 7 of the Essential Supplies (Temporary Powers) Act (XXIV of 1946). It would indirectly amount to prescribing an additional penalty for breach of the conditions of the licence not contemplated by section 7 of the Act. The proposed course of taking an agreement from the applicant is therefore illegal. With all respect to the opinion of my predecessor No. 6709 dated the 13th September 1946, I do not see how we can enforce it. I do not therefore advise taking of any such agreement as is proposed from the applicant.

I don't see much meaning in taking an agreement or a bond on an informal basis. If it is on an informal basis,

sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.O. to C.S.D. No. 1148 dated the 3.2.1947.

(Iso) E.V.C.
14-5
4C.

Office of the R.L.A.

The Civil Supplies Department draft notification at page 3 is intra vires clause 6 of the Bombay Essential Commodities (Regulation of Disposal and Acquisition) Order, 1947 at page 8. The words "in this behalf" in the said clause 6 make it clear that the officer should be authorised under the said clause 6, he will be able to exercise the powers under clause 7, subject to the restrictions therein stated. Reference to clause 7 has therefore been deleted in the revised draft notification sent herewith. Before it is issued the Civil Supplies Department should verify whether the Inspectors proposed to be empowered under clause 6 have the status of officers and insert the area of their jurisdiction therein.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.O. to C.S.D., No. 5748 dated the 17th April 1947.

(Dict K.V.S./14-5
4C.

Civil Supplies Department,

Bombay Castle, April, 1947.

NOTIFICATION.

Bombay Essential Commodities (Regulation of Disposal and acquisition) Order, 1947.

No. 605/Sett :- In pursuance of clause 6 of the Bombay Essential Commodities (Regulation of Disposal and acquisition) Order, 1947, the Government of Bombay is pleased to authorise the Inspectors under the Additional Director of Civil Supplies (Enforcement), Bombay, for the purposes of the said clause within - -

By order of the Governor of Bombay

-sd/-

Secretary to Government.

R.V.A./ 14-5

4 C.

Office of the R.L.A.

The Central Government have made an order under rule 81(3) of the Defence of India Rules, called the Cotton Textiles (Control of Movement) Order, 1946. This order has been deemed also first by section 6 of the Essential Supplies (Temporary Powers) Ordinance, 1946 (XVIII of 1946), and then by section 17 of the Essential Supplies (Temporary Powers) Act, 1946, which repealed the said Ordinance.

2. Clause 4 of the said order provides that no person shall transport or cause to be transported any yarn by rail, road, air, sea or inland navigation, except under and in accordance with -

(i) a general permit notified by the Textile Commissioner in the Gazette of India; or

(ii) a special permit granted by the Textile Commissioner.

Condition 3 of the general permit No. 2 notified by the Textile Commissioner under his notification No. 107/I-TA/46(iii), dated 6-1-1946, provides that any person may transport by rail, road, air, sea or inland navigation or offer so to transport or cause to be transported any yarn from any place within any Region to any other place in the same Region. It is clear from this condition read with condition 2 (which specifies the limits of the Bombay Region) that transport from any place in the Province of Bombay to any other place in the said Province is not prohibited.

3. Clause 6 of the said Cotton Textiles (Control of Movement) Order, 1946, provides that the Textile Commissioner may by notification prohibit the transport of cloth, apparel, hosiery or yarn or any class or description thereof from any place within such area as is specified in the notification to any place

P.T.O.

outside that area by rail, road, air, sea or inland navigation except under such conditions, limitations and restrictions as may be so specified. In virtue of these powers the Textile Commissioner has issued a notification No. 101 TA/46(ii), dated 8-6-1946 which restricts the transport of yarn from any place in the three areas in the Province of Bombay specified in the notification to any place outside the said areas.

4. The proposed draft order (without the proviso) under section 3(2)(d) of the Essential Supplies (Temporary Powers) Act, 1946, being repugnant to the provisions of clauses 4 and 6 of the Cotton Textiles (Control of Movement) Order, 1946, would be ineffectual as provided by the Government of India, Department of Industries and Supplies, Notification No. 73/1-TA/46, dated the 28th December 1946, and with the proviso at would be ineffective in achieving its purpose. Government may under the circumstances consider the feasibility of moving the Textile Commissioner to issue a notification under clause 6 of the said order so far as the movement of yarn from the Poona, Bijapur, Ahmednagar and West Khandesh districts in the Province of Bombay is concerned.

Sd/- P.B.Lad. 15/5-
Remembrancer of Legal Affairs.

U.R. to C.S.D., No. 4991 dated the 15th May 1947.

R.V.G./14-5

4 C.

NOTIFICATIONS.

Civil Supplies Department,

Bombay Castle, May 1947.

I

Essential Supplies (Temporary Powers) Act, 1946.

No. C.R. 68 :- In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), read wit the Government of India, Department of Food Notification No. PY 6C3(2)-1, dated the 21st October 1946, the Government of Bombay is pleased, with the previous concurrence of the Central Government, to amend the Bombay Rationing order, 1943, read with sub-section (2) of section 17 of the said act as follows, namely:-

In sub-clauses (1) and (2) of clause 19 of the said Order, for the word "officer" the words "officer or person" shall be substituted.

II

No. C.R.68(a) :- In pursuance of the provisions of sub-clause (1) of clause 19 of the Bombay Rationing Order, 1943, the Government of Bombay is pleased to authorise for the purposes of the said clause the person specified in column 1 of the Schedule hereto annexed, in respect of the areas respectively specified against them in column 2 thereof.

SCHEDULE.

1	2
Non-official Vice-Chairman of a District Price and Supply Advisory Committee in the Province of Bombay.	The area of a District for which a District Price and Supply Advisc Committee is appointed.
All non-Official members of the Provincial Food and Commodity Advisory Board-	
(i) if such members reside in the City of Bombay and the Bombay Suburban District as Constituted immediately before the 1st day of October 1946;	(i) the City of Bombay and the B.S.D. as cor stituted immediately before the 1st day of October 1946.

P.T.O.

(ii)	if such members reside elsewhere.	(ii) the area of the district in which the member resides.

By order of the Governor of Bombay,

~~Sd/-~~

Secretary to Government.

K.W.G./11-5

4 C.

Office of the R.L.A.

The object appears to be to empower all non-official chairmen of District Price and Supply Advisory Committees and non-official members of the Provincial Food and Commodity Advisory Board to visit ration shops and to inspect the stock or account books, in order to verify the complaints received by them from the public. For that purpose it is proposed to - -

(1) amend clauses 11 and 19 of the Bombay Rationing Order, 1943; and

(2) issue a notification under the amended clause 19 authorising the said non-official persons for the purposes of the clause.

2. Two revised draft notifications are sent herewith. It is not absolutely necessary to amend clause 11 of the Bombay Rationing Order, 1943, to achieve the object in view./ The powers under this clause are intended to be exercised for the effective exercise of the powers which are delegated to an officer or authority in pursuance of the Bombay Rationing Order, 1943 e.g. clauses 3,10,15 and 15A. The powers referred to in the said clauses are s ch that they cannot be fully exercised unless the officer or authority is further armed with the powers under clause 11. Since the non-official members of the committees referred to are merely to exercise the powers under clause 19 of inspecting stocks and account books it is sufficient if only clause 19 which is self-contained in the powers it confers is amended. The effect of substituting the word "person " for the word "officer" in clause 19 would result in depriving an officer of all the powers under clause 19 which is not intended. The word "officer" has therefore been retained.

3. Civil Supplies Department draft notification No. C.R. 68(a) under clause 19 at page 11 -

(a) since there is no Price and Supply Advisory Committee for the Bombay City and the Bombay Suburban District as constituted before the 1st day of October 1946, it is not necessary to refer to the said area in column 2 of the Schedule to the said notification.

(b) subclause (3) of clause 1 of the Bombay Rationing Order, 1943, provides that the order shall come into force in any local area as the Provincial Government may direct. A notification under clause 19 cannot validly be made for any area in which the Order is not in force. There is therefore no propriety in stating, as Civil Supplies Department draft does, that the persons shall have jurisdiction in the area in which the order is in force. These words have therefore been deleted.

4. Before the revised drafts are issued, the Controller of Rationing is requested to verify that they meet with his requirements.

Sd/- P.M.Lad.
15-5-1947.
Remembrancer of Legal Affairs.

U.R. to C. of R. No. 4993, dated the 15th May 1947.

K.V.G./11-5

4 C.

Office of the R.L.A.

The proposed order at page 95/a is intra vires and in accordance with the language of section 3(2)(b) and (j) read with sections 7 and 10 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946). A revised draft order is sent herewith. The following remarks are made :-

(a) Instead of the expression "every head of the household" used in the C.S.D. draft, I think it would be better to adhere to the expression "head of a family" which is used on a ration card itself, so as to fix responsibility. Explanation I has therefore been deleted and the contents thereof have been inserted in the proposed order.

(b) Explanation II :- The provisions of this explanation have been embodied in the operative part of the order.
(Cf. clause 6A of the City of Bombay Rationing Regulation).

(c) Since returns are to be submitted by the head of the family during the week to be specified by the Controller of Rationing the words "on or before the day of 1947" appearing in the first part of the order are redundant and have been omitted.

(d) The power to specify the place at which returns are to be delivered is to be specified by the Controller of Rationing. The long description of the place (vide 'A' on page 95) given in the draft order is quite unnecessary at this stage and has been omitted.

(e) It is presumed that only foodgrains ration cards and other allied cards are to be stamped in such manner as the Controller of Rationing may direct. This is made clear in the draft.

(f) The form in the Schedule has been amended so as to provide that a head of a family or in his absence the eldest member of the family or in his absence the eldest member of the family can sign it or, if illiterate, can affix his thumb impression thereto.

3. The draft notification at page 99 ante :- The wording suggested by the Civil Supplies Department is rather vague and wide too and may cause misunderstanding in public mind. The purpose underlying the notification will be served if the words "and duly stamped if so required under an Order made by the Provincial Government in that behalf are inserted after the words "retail distributor" in clause 16 of the City of Bombay Bombay Suburban District Regulation, 1943.

In place of the draft notification at page 99 two revised drafts thereof are sent herewith.

Sd/- P.M.Lad.
15/5/1947.

Remembrancer of Legal Affairs.

U.R. to C.S.D. No. 4995 dated the 15th May 1947.

K.V.G./11-0

4 0

Civil Supplies Department,

Bombay Castle, May 1947.

O R D E R.

Essential Supplies (Temporary Powers) Act, 1946.

No. C.R. 81 :- In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), read with the Government of India, Department of Food, Notification No. PY 603(2)-I, dated the 21st October, 1946, the Government of Bombay is pleased to direct that every head of a family as shown on ration cards or ration documents issued under the Bombay Rationing Order, 1943, or the Bombay Cloth Rationing Order1945, as the case may be, in the City of Bombay and the Bombay Suburban District as constituted immediately before the 1st day of October 1945 or if he is absent from the area or is not living at the relevant period specified hereinafter, the eldest member of the family, shall furnish true and correct information in respect of himself and the members of his family and household in the form specified in the Schedule annexed hereto to such person, at such place and during such week as may be specified in this behalf by the Controller of Rationing, Bombay, and shall produce along with it the foodgrains ration cards sugar ration cards, if any, and kerosene oil ratio cards,if any, issued under the City of Bombay Rationing Regulation, 1943, or the Bombay Suburban District Rationing Regulation, 1943, as the case may be, and also the ration document for cloth if any, issued under the Bombay Cloth Rationing Order, 1946, for himself and any of the members of his family and household for being stamped in such manner as the Controller of Rationing, Bombay, may direct.

K.V.S. /11-5

5e C.

(Here insert Schedule at p.97 ant

(39)

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Clause 3 of the Bombay Cotton Cloth Trade Regulation Order, 1945, (which it is presumed has been brought into force in the Belgaum District under clause 1 (iii) thereof) provides that "save as hereinafter provided no dealer shall sell or store for sale cloth except under and in accordance with the conditions of a licence granted by the licensing authority". Under this clause a dealer in the Belgaum District is entitled to sell cloth if a licence has been issued to him by the D.M.Belgaum (vide cl. 2(h)).
It is true that cl. 16 of the order empowers the licensing authority to issue such general or special directions to a dealer with regard to the storage, sale, and transport of cloth as it may deem fit. But the provisions of clause 1 of the proposed draft order at p. 7 ante repeats, with slight variations, the provisions of cl. 3 of the Bombay Cotton Cloth Trade Regulation Order, 1945, and it is not understood why a dealer who has obtained a licence to sell cloth under the Order should require for the sale of cloth permission over again of the very authority who issued the licence. In any case such a direction goes beyond the scope of cl. 3 of the Order in as much as it requires the permission of the D.M. from time to time whereas under the principal order, a single licence is sufficient to cover all sales.
The direction being repugnant to the principal Order would be held to be ultra vires and bad in law.

2. The second clause of the proposed Order provides that every licence holder shall send an intimation to the D.M., Belgaum, in the form appended thereto in respect of cloth received by him from outside the Belgaum District. Clause 17 of the Bombay Cotton Cloth Trade Regulation Order, 1945, already provides that every license shall by the 10th day of February, May, August and November in each year, submit to the licensing authority, in Form IX a true and correct statement of stocks of cloth held by him on the last date of the preceeding January, April, July and October respectively. The proposed direction which to some extent

supersedes the provisions of clause 17 of the principal O Order would to that extent be repugnant to the provisions o of that clause. Moreover section 4 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), provides that the Central Government may by notified order direct that the p powers to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by x x such Provincial Government as may be specified in the direction. By virtue of this power the Central Government have by notification in the Department of Industries and Supplies No. 73/I-T A/46, dated the 28th December 1946, delegated the power in relation to cotton textiles to the Provincial Government. Collecting information or statistics is one of such powers which can be exercised by the Provincial Government alone. (vide sec. 3(2)(h) of the Act). The D.M. therefore cannot make any order indirectly under clause 16 of the Order in respect of matter which is the function of the Provincial Government under the Act.

3. The proposal of the D.M., Belgaum, to issue directions of the nature referred to by him is not therefore in order.

Sd/- P.M.Lad 27/5

Remembrancer of Legal Affairs.

D.R. to C.S.D. No. 5474, dated the 27th May, 1947.

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Para. 2 of R.C.D. note :- It appears that groundnut oilcakes are used both as a cattle feed and as manure. The Item 'cattle feed' under schedule I to the Bombay Essential Commodities and Cattle (Control) Act, 1946, (Bom. XXII of 1946) includes oilcakes in so far as they are cattle feed and not manure. But the proposals of Government as embodied in J.R.R.C.D. No. 99, dated the 10th April 1947 (pp.55-61 ante) are not restricted to groundnut oilcakes as manure alone but also cover that article as a cattle feed; and only because it may be used as manure it does not cease to be cattle feed on that account. The Provincial Government is competent to make orders in respect of groundnut oil cakes under section 4 of the said Act requiring persons to declare their stocks of the article. But there already exists an order issued by the C.S.D. No. 45(g)(iv)A, dated the 15th July 1946, requiring any person in charge of an oil mill run on power machinery to furnish to the Deputy Director of Agriculture of the Division in which stocks are held, a full and correct statement of the stocks of groundnut oil cakes held by him in certain areas in the Province. As the proposal now is that such a statement should be sent to the D.Ms. in [illegible] sofussil and the D.C.S. in the Bombay City and Bombay Suburban District (copies being endorsed to Additional Secretary, R.C.D.), a fresh order to that effect may be made under section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, on the lines of the C.S.D. Order No. 45(g) (iv)A dated 15-7-46. But as this Order has been issued by the C.S.D. that Department will have to be consulted. It is better from the administrative point of view that orders regarding groundnut oil cake in all its aspects should issue from one and the same department.

Para. 3 of R.C.D. note :- Clause (i) of sub-section (2) of section 4 of Bombay XXII of 1946, empowers the Provincial Government to make an order for any incidental and supplementary matters including in particular the entering and search

of premises etc. and the seizure by a person authorised to make such search. It is therefore clear that Revenue Officers can be authorised to enter and search factories with a view to see whether owners have complied with an order or not.

Para. 6 of R.C.D. note :- An order of release of groundnut oilcakes is to be issued subsequent to the order freezing the stocks. It appears that C.S.D.by its order No. 45-IV-A, dated the 15-7-1946 has already frozen the stocks of groundnut oil cakes exceeding 25 Bengal maunds at any godown or other place of storage within the limits of the Province of Bombay exvluding the area comprising the ~~Fi~~ City of Bombay and the Bombay Suburban District. Under that order however, the Deputy Director of Agriculture in charge a of Division has been authorized to issue a release order. Since the intention is to authorize the Additional Secretary R.C.D. (i.e. Government itself) to issue a release order, a fresh order may be made in consultation with C.S.D., under section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom. XXII of 1946).

Para. 9 of the R.C.D. note :- It is stated by R.C.D. that there is no ban at present on the inter provincial movement of groundnut oilcakes. As groundnut oilcakes are an essential commodity under the Bombay essential Commodities and Cattle (Control) Act, 1946, the Provincial Government is competent to control the movement of the said article in the Province. But section 297 of the Government of India Act, 1935, provides that no Provincial Government shall, by virtue of the entry in the Provincial Legislative List relating to the production, supply and distribution of commodities have power to take any exevutive action prohibiting or restricting the entry into or export from, the Province of goods of any class or description. Import of oilcakes by those persons who hold import licenses would tend to restrict the entry of gourndnut oilcakes from the area outside the Province and may infringe the provisions of the said Government of India Act,1935. But not definite opinion can be expressed at this stage until the proposal takes a concrete shape and the

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exact nature of the orders is before the H.L.A. The Central Government has no power to ban such inter-provincial movement under the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), as groundnut oilcakes are not essential commodities within the meaning of that term in that Act. Apart from the above view, if the intention of Government is to get information from the persons who import groundnut oilcakes from a place outside the Province of Bombay, a statement of declaration may be called for from every person every week of such imports, since the stocks after they are imported will be somewhere in the Province and a person holding them will be under an obligation to declare them.

Sd/- P.M.Lad.
Remembrancer of Legal Affairs.

U.R. to R.C.D. No. 5499 , dated the 28th May 1947.

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Clause 4(iii) of the license in Form II issued under the Bombay Rice Mills Licensing Order, 1943, prohibits giving rice more than half the polish. In Criminal Case No. 82 of 1947 the Sessions Judge, Surat, has held that the notification No. 99/II dated 12-2-1944 issued under clause (a) of Rule 81(2) of the Defence of India has after 1-10-46 become inoperative inasmuch as the Ordinance XVIII of 1946 contained in section 3(2) no provision relating to treatment. Section 3(2) of the Essential Supplies (Temporary Powers) Act, 1946 is in terms similar to section 3(2) of the Ordinance XVIII. Consequently if the decision of the Sessions Judge, Surat, is held to be correct clause 4(iii) of the licence in Form II issued under the Bombay Rice Mills Licensing Order would be Ultra vires the provisions of section 3(2) of the Essential Supplies (Temporary Powers) Act, 1946. On the linked case I have considered the question whether the decision of the Sessions Judge Surat is correct, and have expressed my dissent from the view taken by the Sessions Judge, Surat, and I have advised an appeal against his decision. The prohibition against polishing would in this instance be covered by the powers for the regulation of "use", and also by the powers for the regulation of "production" or "manufacture", as the regulation in this case is at a stage where paddy is converted or manufactured into rice - and before it reaches the consumer. The difficulty regarding the ejusdem generis interpretation of the expression "or otherwise" does not also arise in this case, as the amendment is of a condition of a licence. I would hold the proposed amendment intra vires clauses (a) and (d) of section 3(2) of the Essential Supplies (Temporary Powers) Act, 1946. However, if the Department agrees, we might hold up the notification, and expedite the appeal in the High Court.

Sd/- P.N.Lad. 5/6
Remembrancer of Legal Affairs.

U.R. to C.S.D., No. 5394 dated the 5th June 1947.